

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,) No. 01-00221-01-Cr-W-1
)
v.) COUNT ONE:
) 18 U.S.C. § 371
RICHARD K. HALFORD,) NMT 5 years and \$250,000
[DOB: 09/08 34]) Class D Felony
Defendant.) NMT 3 years supervised release
) \$100 Special Assessment
)
) COUNTS TWO, THREE and FOUR:
) 26 U.S.C. § 7203
) NMT 1 year imprisonment
) NMT \$100,000 and costs of prosecution
) Class A Misdemeanor
) NMT 1 year supervised release
) \$25 Special Assessment
)
) Restitution may be ordered.
)

I N F O R M A T I O N

THE UNITED STATES ATTORNEY CHARGES THAT:

COUNT ONE

CONSPIRACY TO VIOLATE
THE FOREIGN CORRUPT PRACTICES ACT
(18 U.S.C. §371)

1. From in or about December 1997 to in or about October 2000, in the Western District of Missouri and elsewhere, the defendant RICHARD K. HALFORD, together with others known and unknown to the United States Attorney, did conspire, confederate, and agree with each other to commit offenses against the United States, to wit: being “domestic concerns,” officers, directors, employees, and agents of “domestic concerns”, and stockholders acting on behalf of

“domestic concerns,” as those terms are defined in the Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-2(h)(1), to use the mails and means and instrumentalities of interstate commerce and to do other acts within the territory of the United States corruptly in furtherance of an offer, payment, promise to pay, and the authorization of the payment of money, to

- foreign government officials, foreign political parties, foreign political party officials, and candidates for foreign public office, and
- other persons while knowing that all or a portion of such money would be offered, given and promised, directly and indirectly to such persons and political parties,

for purposes of influencing acts and decisions of such persons and political parties, inducing such persons and political parties to do and omit to do acts in violation of their lawful duty, and inducing such persons and political parties to use their influence with a foreign government and instrumentality thereof to affect and influence acts and decisions of such government and instrumentality, in order to assist Owl Securities and Investments Ltd. in obtaining and retaining business for, and directing business to Owl Securities and Investments Ltd. and OSI Proyectos, in violation of the Foreign Corrupt Practices Act, Title 15, United States Code, Section 78dd-2(a).

GENERAL ALLEGATIONS

2. At all times material herein, the Foreign Corrupt Practices Act of 1977 (FCPA), as amended, 15 U.S.C. §§78dd-1, *et seq.*, was enacted by Congress for the purpose of, among other things, making it unlawful for United States persons, businesses and residents to use the United States mails, or any means or instrumentality of interstate commerce in furtherance of an offer, promise, authorization, or payment of money or anything of value to a foreign government

official for the purpose of obtaining or retaining business for, or directing business to, any person.

3. At all times material herein, Owl Securities and Investments, Limited (“OSI”) was a business having its principal place of business in Kansas City, Missouri. OSI is a “domestic concern” as that term is defined in 15 U.S.C. §78dd-2(h)(1)(B). OSI controlled, and operated OSI Proyectos, a business incorporated under the laws of Costa Rica and having its principal place of business in San Jose, Costa Rica. All significant decisions and expenditures incurred by OSI Proyectos were authorized by OSI in Kansas City, Missouri.

4. At all times material herein, RICHARD K. HALFORD was a citizen of the United States and was a stockholder of OSI. In addition, from 1997 through in or about September 1999, HALFORD was the Chief Financial Officer of OSI. As such, HALFORD was a “domestic concern” as that term is defined in 15 U.S.C. § 78dd-2(h)(1)(A) and an officer and employee of a “domestic concern” and a stockholder acting on behalf of a “domestic concern” as that term is defined in 15 U.S.C. § 78dd-2(h)(1)(B).

PURPOSE OF THE CONSPIRACY

5. The purpose of the conspiracy was to secretly pay money to public officials and political parties in Costa Rica to obtain from the Government of the Republic of Costa Rica a land concession to build and operate a mixed-use facility, known as the “Costa Rican Project.” The Costa Rican Project encompassed the construction, development, and operation of new port facilities on the Carribean coast of Costa Rica, as well as an international airport, a beach-front resort, a marina, residential estates, a quarry, a salvage operation, and a dry canal linking the new port to a port on the Pacific coast of Costa Rica.

MANNER AND MEANS OF THE CONSPIRACY

6. It was part of the conspiracy that HALFORD and others would solicit investors in the United States for the “Costa Rican Project,” and some of the coconspirators would represent to certain potential investors that a portion of the invested funds would be used to cultivate friends in the Costa Rican government and political parties to ensure that a land concession would be awarded to OSI Proyectos.

7. It was further a part of the conspiracy that HALFORD and others would solicit from investors in the United States funds with which to make payments to foreign officials and political parties to obtain a land concession for OSI Proyectos.

8. It was further a part of the conspiracy that the conspirators, acting on their own behalf and as agents of OSI, knew of and agreed to payments to officials of the Republic of Costa Rica, political parties, party officials, and candidates for public office to induce them to use their influence to assist in obtaining a land concession for OSI Proyectos.

9. It was further a part of the conspiracy that, through OSI and OSI Proyectos, payments were made to Costa Rican officials and candidates for political office in exchange for their support and influence in support of the Costa Rican Project and to obtain favorable changes to Costa Rican law and regulations.

10. It was further a part of the conspiracy that HALFORD and others would agree to make a final payment of \$1,500,000, divided between the ruling and opposition parties, contingent upon the land concession being granted to OSI Proyectos.

11. It was further part of the conspiracy that some of the conspirators would represent to potential investors that they were insulated from any liability for the payments to the Costa Rican officials, political parties, party officials, and candidates for public office because they were buying an interest in OSI Proyectos, which they claimed was “squeaky clean,” while all of the “dirty work” was conducted by a different offshore company.

12. It was further a part of the conspiracy the conspirators would transfer funds or otherwise deliver cash and cashiers checks, or cause such cash and cashiers checks to be delivered, to agents in Costa Rica, knowing that these funds would be used to make payments, directly or through attorneys retained by OSI Proyectos, to Costa Rican officials, political parties, party officials, and candidates for public office in the guise of campaign contributions and consulting fees in exchange for the influence of these officials, political parties, party officials, and candidates in support of the Costa Rican Project.

13. It was further a part of the conspiracy that HALFORD and others would refer to the payments to the Costa Rican officials, political parties, party officials, and candidates for public office by using codewords such as “consulting fees,” “tolls,” “kiss money,” and “closing costs.”

OVERT ACTS

14. In order to further the objects and purposes of this conspiracy, defendant HALFORD and his co-conspirators, known and unknown to the United States Attorney, did commit and cause to be committed the following and other overt acts within the Western District of Missouri and elsewhere:

a. In or about 1997, in Kansas City, Missouri, a co-conspirator directed the Costa Rican agent to make payments in Costa Rica to two candidates for the Costa Rican Congress to obtain their support for and influence on behalf of obtaining the land concession for the Costa Rican Project. Subsequently, these congressmen were appointed to chair a commission to establish a National Port Authority.

b. In or about January 1998, in Costa Rica, a high ranking official of the government of Costa Rica, pursuant to a request of the conspirators, issued a letter of intent to OSI outlining the terms of a land concession for the Costa Rican Project.

c. On or about May 3, 2000, a co-conspirator received a facsimile sent by the Costa Rican agent of OSI from Costa Rica. In this facsimile, the Costa Rican agent discussed OSI's need to regain credibility with the Costa Rican authorities and specifically cited the need to make payments to Costa Rican officials, political parties, and candidates:

Toll Allocation

Even if money is important, it is not the main issue. This is looked at as a compromise, a gentlemen's agreement, and everyone involved is sure that once all parties back the project, the compromise will be fulfilled accordingly.

Next year is a political year. Next elections will take place in Feb. 2002. Campaigns are money-consuming processes and politicians

will be looking for contributions that will, somehow be repaid as favors. An advance of the toll will have to take place early next year. And we will also have to consider contributions to the current opposition Party, who accordingly with recent polls will very probably be the next term ruling political force.

The concession becomes not only a political support issue, but also a timely matter. If we are able to perform before the current political term is over, we will get the concession utilizing our current friends. Otherwise we will have to start the convincing process again with the new comers.

Toll will then have to be allocated accordingly in direction and time for it to be effective.

d. On or about May 8, 2000, HALFORD sent an electronic mail message to the Costa Rican agent in Costa Rica to discuss funding the Costa Rica Project which stated:

Also for the first time, you have used the words toll allocation. Is this a new term for the politicians? What are the dollar amounts in this area? Does this cover all of the people in both parties? If possible we would like some specifics as to whom we are talking about. We originally budgeted \$1,000,000 for this purpose. We would like a breakdown on these amounts. If this is the case, we would like an agreement that these monies would be escrowed subject to the granting of the concession agreement.

e. On or about May 18, 2000, HALFORD received an electronic mail message, sent from Costa Rica by the Costa Rican agent, containing the names of Costa Rican officials and others who had been paid by OSI Proyectos. This information was provided to the conspirators to help persuade investors to fund additional payments to obtain the land concession for the Costa Rican Project.

f. On or about May 25, 2000, HALFORD drafted for distribution to potential investors a “Proposal for a [sic] investment in Owl Securities & Investments” that stated that a requirement for obtaining the concession prior to the required studies being completed was “[t]he

posting of the required closing costs estimated at \$1,000,000.” The proposal stated that “[t]his amount would be escrowed and not released until the concession agreement was granted.”

g. On or about July 12, 2000, HALFORD placed a telephone call to a potential investor in Denver, Colorado, during which he discussed the “closing costs” with the potential investor.

h. On or about August 4, 2000, HALFORD sent a letter to the potential investor in Denver, Colorado, stating that the investor’s funds would be placed in an escrow account to cover “anticipated closing costs.”

i. On or about August 4, 2000, in San Jose, Costa Rica, the Costa Rican agent of OSI, during a telephone call with a cooperating subject in Kansas City, Missouri, proposed creating a new company and opening a new bank account either in Panama or in the United States through which the payments to the Costa Rican officials could be made without them being traced back to OSI or OSI Proyectos.

j. On or about August 9, 2000, HALFORD agreed that OSI would set up a new company and a bank account in Panama through which the payments to the Costa Rican officials would be made.

k. On or about August 16, 2000, in San Jose, Costa Rica, in response to a request for the names of the politicians who had received payments in the past from OSI and OSI Proyectos, the Costa Rican agent sent an email to HALFORD containing the names of “politicians and friend of ours who would back the project with their support.”

l. On or about August 17, 2000, in Kansas City, Missouri, HALFORD met with other conspirators to discuss the Costa Rican Project and to confirm that each agreed to pay a

“closing fee” or “toll” to the Costa Rican politicians. During this meeting, HALFORD and other coconspirators placed a telephone call to OSI’s Costa Rican agent in San Jose, Costa Rica, during which they discussed the Costa Rican Project.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

During the calendar year 1997, defendant RICHARD K. HALFORD, who was then a resident of Johnson County, Kansas, had and received total income of \$95,938; that on such income there was owing to the United States an income tax of \$17,628; that he was required by law on or before April 15, 1998, to pay said income tax to the Director, Internal Revenue Service Center, at Austin, Texas, in the Western Judicial District of Texas, or to the District Director of the Internal Revenue Service for the Internal Revenue District Kansas-Missouri, at St. Louis, Missouri, or to any other proper officer of the United States; and that well-knowing and believing all of the foregoing, he did willfully fail to pay \$11,178 to said Director, District Director, or to any other proper officer of the United States.

All in violation of Title 26, United States Code, Section 7203.

COUNT THREE

During the calendar year 1998, defendant RICHARD K. HALFORD, who was then a resident of Johnson County, Kansas, had and received total income of \$4,004; that on such income there was owing to the United States an income tax of \$4,151 (including self-employment tax); that he was required by law on or before October 15, 1999, to pay said income tax to the Director, Internal Revenue Service Center, at Austin, Texas, in the Western Judicial District of Texas, or to the District Director of the Internal Revenue Service for the Internal

Revenue District of Kansas-Missouri, at St. Louis, Missouri, or to any other proper officer of the United States; and that well-knowing and believing all of the foregoing, he did willfully fail to pay \$4,151 to said Director, District Director, or to any other proper officer of the United States.

All in violation of Title 26, United States Code, Section 7203.

COUNT FOUR

During the calendar year 1999, defendant RICHARD K. HALFORD, who was then a resident of Johnson County, Kansas, had and received total income of \$13,971; that on such income there was owing to the United States an income tax of \$1,600 (including self-employment tax); that he was required by law on or before October 15, 2000, to pay said income tax to the Director, Internal Revenue Service Center, at Austin, Texas, in the Western Judicial District of Texas, or to the District Director of the Internal Revenue Service for the Internal Revenue District of Kansas-Missouri, at St. Louis, Missouri, or to any other proper officer of the United States; and that well-knowing and believing all of the foregoing, he did willfully fail to pay \$1,600 to said Director, District Director, or to any other proper officer of the United States.

All in violation of Title 26, United States Code, Section 7203.

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Marietta Parker	Peter B. Clark
United States Attorney	Deputy Chief, Fraud Section
	Criminal Division
By	United States Department of Justice
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Linda Parker Marshall #24954	Philip Urofsky
Assistant United States Attorney	Trial Attorney
	Fraud Section
	Criminal Division

United States Department of Justice

/s/

Randi J. Rothenberg
Trial Attorney
Fraud Section
Criminal Division
United States Department of Justice